

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
SAN ANTONIO DIVISION

VIRGINIA SALDANA	§	
<i>Plaintiff</i>	§	
	§	
VS.	§	
	§	CIVIL NO.: 5:21-CV-424
99 CENTS ONLY STORES, LLC	§	
99 CENTS ONLY STORES,	§	
TEXAS, INC. AND 99 CENTS	§	
ONLY STORE #2839	§	
<i>Defendants</i>	§	

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW 99 CENTS ONLY STORES TEXAS INC. and 99 CENTS ONLY STORES LLC and the improperly named 99 CENTS ONLY STORE #2839 and files this Notice of Removal pursuant to 28 U.S.C. § 1446 (a), and hereby remove this case from the 166th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas.

Defendant demands a jury trial on all issues in the case.

Defendants have denied the claims and damages alleged in Plaintiff's Original Petition and file this notice without waiving any claims, defenses, exceptions or obligations that may exist in its favor in State or Federal Court.

I.
INTRODUCTION

99 CENTS ONLY STORES TEXAS INC. and 99 CENTS ONLY STORES LLC and the improperly named 99 CENTS ONLY STORE #2839 are the named Defendants in a civil action commenced on March 31, 2021 in the 166th Judicial District Court of Bexar County, Texas. The Cause No. of that case is 2021CI06190 and the style is Virginia Saldana v. 99 Cents Only Stores, LLC, 99 Cents Only Stores Texas, Inc. and 99 Cents Only Store #2839. (Hereinafter referred to as the State Court Action.) There is no legal entity known as 99 Cents Only Store #2839 and Defendant has affirmatively pled that defense in the State Court Action.

Copies of all pleadings and orders served in the State Court action are attached along with an index of the State Court documents.

The address for the Judicial District Court is: Bexar County Courthouse, 100 Dolorosa, 2nd Floor, San Antonio, Texas 78205.

Plaintiff in the State Court action is Virginia Saldana and her attorney is Erin Anderson Spencer, 4416 Ramsgate, Suite 202, San Antonio, Texas 78230. Telephone No. (210) 699-0004, Fax (210) 699-0005 and Email: erin@spencerandersonfirm.com.

Defendants in the case are represented by Michael J. Griffin, III, Griffin & Griffin, 3003 South Loop West, Suite 206, Houston, Texas 77054, Tel. 713/228-6568, Email: Michael@griffinandgriffin.us; E-service: eservice@griffinandgriffin.us; SBN: 08463020.

There are no other parties to this civil action.

II. **BASIS FOR REMOVAL**

Defendants filed an Answer and an Amended Answer in the State Court Action.

The lawsuit was filed on March 31, 2021 and the Defendants were served on or about April 1, 2021. This Notice of Removal is filed within thirty (30) days of receipt of the citation and petition and is timely filed pursuant to 28 U.S.C. §1446 (b).

A. Diversity of Citizenship

1. The district courts of the United States have original jurisdiction of this action based on diversity of citizenship among the parties. Each defendant is now and was at the time this action was filed diverse in citizenship from the Plaintiff. Plaintiff is or was at the time the suit was filed a citizen of the State of Texas.

In her petition Plaintiff alleges all of the named Defendants are foreign entities.

2. 99 Cents Only Stores Texas Inc. is a Delaware corporation and 99 Cents Only Stores, LLC is a California Corporation. 99 Cents Store #2839 is not a legal entity. As such, Defendants are now and at the time this lawsuit was commenced, citizens of a state other than Texas.

B. Amount in controversy in this action

Exclusive of interest and costs the amount in controversy exceeds the sum of \$75,000.00. In her petition Plaintiff is asking for over \$1,000,000.00 in damages.

Removal of the State Court Action is proper pursuant to 28 U.S.C. §1441 since it is a civil action brought in the State Court and the Federal District Court has original jurisdiction over the subject matter under 28 U.S.C. §1332(a) as Plaintiff and Defendants are diverse in citizenship.

WHEREFORE PREMISES CONSIDERED Defendants respectfully pray that the Court, pursuant to the statutes and in conformity with the requirements set forth in 28 U.S.C. §1446, remove this action from the 166th Judicial District Court in Bexar County, Texas to this Honorable Court in the Western District of Texas.

Respectfully submitted,

Date: 04/28/2021

Michael J. Griffin

MICHAEL J. GRIFFIN III

SBN: 08463020

FEDERAL I.D. NO. 9661

GRIFFIN & GRIFFIN

3003 South Loop West, Suite 206

Houston, Texas 77054-1372

(713) 228-6568 Tel.

(713) 228-9900 Fax.

Michael@griffinandgriffin.us

ATTORNEY FOR DEFENDANTS

99 CENTS ONLY STORES TEXAS

INC. and 99 CENTS ONLY STORES

LLC and the improperly named 99

CENTS ONLY STORE #2839

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel of record by certified mail, return receipt requested, e-service, e-mail, facsimile transmission, and/or hand delivered by messenger, on this the 28th day of April 2021.

Erin Anderson Spencer

SBN: 24104963

Erin@spencerandersonfirm.com

4416 Ramsgate, Suite 202

San Antonio, Texas 78230

Tel. 210/699-0004

Fax. 210/699-0005

Date: 04/28/2021

Michael J. Griffin

MICHAEL J. GRIFFIN, III

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
SAN ANTONIO DIVISION

VIRGINIA SALDANA	§	
<i>Plaintiff</i>	§	
	§	
VS.	§	
	§	CIVIL NO.: 5:21-CV-424
99 CENTS ONLY STORES, LLC	§	
99 CENTS ONLY STORES,	§	
TEXAS, INC. AND 99 CENTS	§	
ONLY STORE #2839	§	
<i>Defendants</i>	§	

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Fed. R. Civ. P.7.1 99 CENTS ONLY STORES TEXAS INC. and 99 CENTS ONLY STORES LLC and the improperly named 99 CENTS ONLY STORE #2839, Defendants provides the following information:

For a nongovernmental corporate party, the name(s) of its parent corporation and any publicly held corporation that owns 10% or more of its stock: ARES MANAGEMENT and CPP INVESTMENT BOARD.

A complete list of all persons, associations of persons, firms, partnerships, corporations, guarantors, insurers, affiliates, parent or subsidiary corporations, or other legal entities that are financially interested in the outcome of the case:

99 CENTS ONLY STORES TEXAS INC. and 99 CENTS ONLY
STORES LLC and the improperly named 99 CENTS ONLY STORE
#2839, Defendants, Michael J. Griffin, III – Defendant's Attorney;

VIRGINIA SALDANA – Plaintiff, Erin Anderson Spencer – Plaintiff's
Attorney.

Respectfully submitted,

Date: 04/28/2021

Michael J. Griffin

MICHAEL J. GRIFFIN III
SBN: 08463020
FEDERAL I.D. NO. 9661
GRIFFIN & GRIFFIN
3003 South Loop West, Suite 206
Houston, Texas 77054-1372
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**ATTORNEY FOR DEFENDANTS
99 CENTS ONLY STORES TEXAS
INC. and 99 CENTS ONLY STORES
LLC and the improperly named 99
CENTS ONLY STORE #2839**

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Date: 04/28/2021

Michael J. Griffin

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
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VIRGINIA SALDANA	§	
<i>Plaintiff</i>	§	
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TEXAS, INC. AND 99 CENTS	§	
ONLY STORE #2839	§	
<i>Defendants</i>	§	

LIST OF COUNSEL OF RECORD

Plaintiff in the State Court Action is Virginia Saldana and her attorney is Erin Anderson Spencer, SBN: 24104963, Erin@spencerandersonfirm.com, 4416 Ramsgate, Suite 202, San Antonio, Texas 78230, Tel. 210/699-0004, Fax. 210/699-0005.

Ryan Orsatti, SBN: 24088910, 4634 De Zavala Rd., San Antonio, Texas 78249, Tel. 210/525-1200, ryan@ryanorsattilaw.com.

99 CENTS ONLY STORES TEXAS INC. and 99 CENTS ONLY STORES LLC and the improperly named 99 CENTS ONLY STORE #2839 are represented by Michael J. Griffin, III, SBN: 08463020, GRIFFIN & GRIFFIN, 3003 South Loop West, Suite 206, Houston, Texas 77054, Tel. 713/228-6568, Fax. 713/228-9900, Michael@griffinandgriffin.us.

Respectfully submitted,

Date: 04/28/2021

Michael J. Griffin

MICHAEL J. GRIFFIN III
SBN: 08463020
FEDERAL I.D. NO. 9661
GRIFFIN & GRIFFIN
3003 South Loop West, Suite 206
Houston, Texas 77054-1372
(713) 228-6568 Tel.
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**ATTORNEY FOR DEFENDANTS
99 CENTS ONLY STORES TEXAS
INC. and 99 CENTS ONLY STORES
LLC and the improperly named 99
CENTS ONLY STORE #2839**

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Date: 04/28/2021

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UNITED STATES DISTRICT COURT
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ONLY STORE #2839	§	
<i>Defendants</i>	§	

INDEX OF DOCUMENTS TO BE FILED WITH NOTICE OF REMOVAL

1. Plaintiff's Original Petition;
2. Citation and Notice of Service of Process on 99 Cents Only Stores Texas, Inc. and 99 Cents Only Stores, LLC in Cause No. 2021CI06190;
3. Service of Process Transmittal showing service of process by Certified Mail on April 6, 2021;
4. Defendant's Original Answer filed on March 31, 2021;
5. Defendant's Amended Original Answer filed April 23, 2021;
6. Defendant's Notice of Removal.

FILED
3/31/2021 6:04 PM
Mary Angie Garcia
Bexar County District Clerk
Accepted By: Victoria Angeles

2 CITS CML

CAUSE NO. **2021CI06190**

VIRGINIA SALDANA
PLAINTIFF.

VS.

99 CENTS ONLY STORES, LLC, 99
CENTS ONLY STORES TEXAS, INC.,
AND 99 CENTS ONLY STORE #2839,
DEFENDANT.

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

166th **JUDICIAL DISTRICT**

BEXAR COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION,
WITH REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Virginia Saldana, hereinafter referred to by name or as Plaintiff, and complains of Defendant, 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., AND 99 CENTS ONLY STORE #2839, hereinafter referred to by name or as Defendant, and for cause of action would respectfully show unto the Court as follows:

I.
DISCOVERY CONTROL PLAN

1. Plaintiff intends that discovery be conducted under LEVEL 3 of RULE 190 of the TEXAS RULES OF CIVIL PROCEDURE.

II.
PARTIES

2. Plaintiff, Virginia Saldana, resides in San Antonio, Bexar County, Texas.
3. The last three numbers of Virginia Saldana, social security number are 993.
4. Defendant, 99 CENTS ONLY STORES, LLC, a Foreign Limited Liability

Company and may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, Ct Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above can be affected by certified mail, return receipt requested.

5. Defendant, 99 CENTS ONLY STORES TEXAS, INC., a Foreign For-Profit Corporation and may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, Ct Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above can be affected by certified mail, return receipt requested.

6. Defendant, 99 CENTS ONLY STORE #2839, a Foreign Limited Liability Company and may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, Ct Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above can be affected by certified mail, return receipt requested.

III.

JURISDICTION AND VENUE

7. Defendant, 99 CENTS ONLY STORES, LLC, is a Foreign Limited Liability Company, and may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, Ct Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above can be affected by certified mail, return receipt

requested.

8. Defendant, 99 CENTS ONLY STORES TEXAS, INC., is a Foreign For-Profit Corporation and may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, Ct Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above can be affected by certified mail, return receipt requested.

9. Defendant, 99 CENTS ONLY STORE #2839, is a Foreign Limited Liability Company and may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, Ct Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Service of said Defendant as described above can be affected by certified mail, return receipt requested.

10. The subject matter in controversy is within the jurisdictional limits of this court.

11. Plaintiff seeks:

a. Any monetary relief of over \$1,000,000.00 including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

12. This court has jurisdiction over Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, because said Defendant purposefully availed itself of the privilege of conducting activities in the State of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99

CENTS ONLY STORE #2839, will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

13. Plaintiff would show that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839 had continuous and systematic contacts with the state of Texas sufficient to establish general jurisdiction over said Defendant.

14. Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839 is engaged in the conduct of providing consumer products, groceries, and services to the public in the State of Texas. Specifically, the Defendant(s) operate a store located at 2942 Old Thousand Oaks Dr., San Antonio, Texas 78247.

15. Venue in Bexar County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

IV. MISNOMER

16. In the event any parties are misnamed or not included herein, it is Plaintiff's contention that such was a "misnomer" and/or such parties are/were "alter egos" of parties named herein. In the event that the true parties are misidentified, Plaintiff hereby asserts reliance upon the doctrine of misidentification.

V. FACTS

17. At all times material hereto, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839 had

control over of the premises located at 2942 Old Thousand Oaks Dr., San Antonio, Texas 78247.

18. Plaintiff, Virginia Saldana, entered upon said premises for the purpose of shopping for consumer goods in the Defendant's facilities. Plaintiff entered on the said property of Defendant at the invitation of Defendant to engage in the act of purchasing consumer goods and/ or services in the facilities.

19. On 04/29/2019 date, Plaintiff, Virginia Saldana, entered the property of the Defendant(s), parked her car and began walking to the front door of the store.

20. Plaintiff was injured when without warning she took a step into a dangerously concealed deep hole created by the Defendant's removal of a cement base which supported a light pole. This unfilled hole was not visible to the Plaintiff because it was concealed by grassy vegetation growing inside it and left unmarked by the defendant.

21. Plaintiff's bodily injuries occurred as a direct result of and were proximately caused by the dangerous condition described above, which Defendant's knew or, in the exercise of ordinary care, should have known existed.

VI. CAUSES OF ACTION

A. NEGLIGENCE

22. At all times mentioned herein, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839 operated the property in question, located at 2942 Old Thousand Oaks Dr., San Antonio, Texas 78247.

23. At all times mentioned herein, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, had
SALDANA V. 99 CENTS ONLY STORES, LLC, ET AL PAGE 5 OF 13
Plaintiffs Original Petition, and TRCP 193.7 Notice.

such control over the premises in question that Defendants owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

24. Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839 agents, servants, and employees negligently permitted a hazard to exist and negligently or willfully allowed such condition to continue, and negligently or willfully failed to warn Plaintiff of the condition of the area. Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, Defendant's agents, servants, and employees knew, or should have known, and that there was likelihood of a person being injured as occurred to Plaintiff.

25. At all times pertinent herein, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839 and any of Defendant's agents, who were acting in the scope of their employment, had a duty to exercise the degree of care to avoid harm to others under circumstances similar to those described herein. Plaintiff's injuries were proximately caused by Defendant's negligent, careless and reckless disregard of said duty. The negligent, careless and reckless disregard of duty by Defendant, consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances, and had a duty to inspect the premises;
- B. In that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS

ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, failed to maintain the premises in an effort to avoid the injuries complained of creating a condition that posed an unreasonable risk of harm;

C. In that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, failed to exercise reasonable care to eliminate or reduce the risk of harm as a person using ordinary prudent care would have done;

E. In that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, in a deficient manner ignored a dangerous condition that existed on the premises;

F. In that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, failed to use such reasonable care as would be expected would by a person of ordinary prudence under the same or similar circumstances and that failure of care caused injuries to another.

B. NEGLIGENT ACTIVITY

26. In that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, engaged in malfeasance by acting in affirmative contemporaneous conduct resulting in the injury of the Plaintiff by or as a concomitant result of the activity itself. *Olivo*, 952 S.W.2d at 527; *Keetch v. Kroger Co.*, 845 S.W.2d 262,264 (Tex. 1992)

C. RESPONDEAT SUPERIOR

27. At all times mentioned herein, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, owned the property in question, known as 2942 Old Thousand Oaks Dr., San Antonio, Texas 78247.

28. At all times mentioned herein, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, had such control over the premises in question that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

29. Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, Defendant's agents, servants, and employees negligently, during business hours and negligently or willfully allowed a hazardous condition to exist, such condition to continue and negligently or willfully failed to warn Plaintiff of the condition. This condition existed despite the fact that Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, or Defendant's agents knew or should have known of the existence of the aforementioned condition and that there was likelihood of a person being injured as occurred to Plaintiff.

30. Furthermore, Plaintiff would show the court that the condition which caused harm to the Plaintiff was the result of negligent actions by an employee of the Defendant and such actions constituted a negligent and contemporaneous activity. In a premises-liability case, the landowner owes the invitee two duties: a duty to keep the premises reasonably safe and a duty not to injure the invitee through contemporaneous negligent activity as seen in the present case. See, e.g., *State v. Shumake*, 199 S.W.3d 279, 284 (Tex. 2006).

D. PREMISES LIABILITY

31. At all times pertinent herein, Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, and any of Defendant's agents, who were acting in the scope of their employment, were guilty of negligent conduct toward the Plaintiff in:

- A. Failing to properly inspect and maintain the parking area in question to discover the dangerous condition;
- B. Failing to maintain the parking area in a reasonably safe condition;
- C. Failing to give adequate and understandable warnings to Plaintiff of the unsafe condition of the parking area;
- D. Failing to give warnings to Plaintiff of the unsafe condition;
- E. Failing to address the conditions caused by the Defendant which resulted in the Plaintiff's injuries.

VII.
PROXIMATE CAUSE

32. Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant(s), taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

VIII.
EXEMPLARY DAMAGES

33. Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, acts or omissions described above, when viewed from the standpoint of Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendant(s), 99

CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839, had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

34. Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendant(s), 99 CENTS ONLY STORES, LLC, 99 CENTS ONLY STORES TEXAS, INC., and 99 CENTS ONLY STORE #2839.

IX.
DAMAGES FOR PLAINTIFF

35. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendants acts as described herein, Plaintiff was caused to suffer grievous injuries to her knees, legs, hands, arms, back and neck, and to endure anxiety, pain, and illness resulting in damages more fully set forth below.

36. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff has incurred the following damages:

- a. Reasonable medical care and expenses in the past. Plaintiff, incurred these expenses for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in the county they were incurred;
- b. Reasonable and necessary medical care and expenses, which will, in all reasonable probability, be incurred in the future;
- c. Physical pain and suffering in the past;

- d. Physical pain and suffering, which will, in all reasonable probability, be suffered in the future;
- e. Physical impairment in the past;
- f. Physical impairment which will, in all reasonable probability, be suffered in the future;
- g. Loss of wages in the past;
- h. Loss of earning capacity which will, in all reasonable probability, be incurred in the future;
- i. Mental anguish in the past;
- j. Mental anguish which will, in all reasonable probability, be suffered in the future;
- k. Fear of future disease or condition;
- l. Disfigurement; and,
- m. Cost of medical monitoring and prevention in the future.

37. By reason of the above, Plaintiff has suffered losses and damages and is entitled to monetary relief of over \$1,000,000.00 including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees in a sum within the jurisdictional limits of the Court.

X.
PREJUDGMENT AND POST-JUDGMENT INTEREST

38. Plaintiff further requests both pre-judgment and post-judgment interest on all damages as allowed by law.

XII.

JURY DEMAND

39. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Plaintiff hereby makes application for a jury trial and requests that this cause be set on the Court's Jury Docket. Plaintiff acknowledges payment this date of the required jury fee.

XIII.
NOTICE OF SELF AUTHENTICATION

40. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendants are hereby noticed that the production of any document in response to written discovery authenticates the document for use against that party in any pretrial proceeding or at trial.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity, including, but not limited to:

1. Pain and suffering in the past;
2. Pain and suffering in the future;
3. Mental anguish in the past;
4. Mental anguish in the future;
5. Past medical expenses;
6. Future medical expenses;

7. Physical impairment in the past;
8. Physical impairment in the future;
9. Physical disfigurement in the past;
10. Physical disfigurement in the future;
11. Lost wages in the past;
12. Lost future wages;
13. Loss of future wage-earning capacity;
14. Exemplary Damages;
15. Loss of use;
16. Property Damage;
17. Pre-judgment interest;
18. Post-judgment interest.

RESPECTFULLY SUBMITTED,

/s/ ERIN ANDERSON SPENCER

By:

Jason C. Spencer

Texas Bar No. 24053488

Email: Jason@spencerandersonfirm.com

Travis R. Anderson

Texas Bar No. 24080770

Email: Travis@spencerandersonfirm.com

X Erin Anderson Spencer

Texas Bar No. 24104963

Email: Erin@spencerandersonfirm.com

4416 Ramsgate, Suite 202

San Antonio, TX 78230

Tel. (210) 699-0004

Fax. (210) 699-0005

Attorney for Plaintiff

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

CERTIFIED MAIL #70201290000217070408



2021CI06190 S00001

Case Number: 2021-CI-06190

VIRGINIA SALDANA

vs.

IN THE DISTRICT COURT
166th JUDICIAL DISTRICT
BEXAR COUNTY, TEXAS

99 CENTS ONLY STORE LLC ET AL

(Note: Attached document may contain additional litigants).

CITATION

"THE STATE OF TEXAS"

DIRECTED TO: 99 CENTS ONLY STORE LLC

BY SERVING ITS REGISTERED AGENT, CT CORPORATION SYSTEM
1999 BRYAN ST 900
DALLAS TX 75201-3140

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said ORIGINAL PETITION, WITH REQUEST FOR DISCLOSURE was filed on the 31st day of March, 2021.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 1ST DAY OF April A.D., 2021.

ERIN ANDERSON SPENCER
ATTORNEY FOR PLAINTIFF
4416 RAMSGATE 202
SAN ANTONIO, TX 78230Mary Angie Garcia
Bexar County District Clerk
101 W. Nueva, Suite 217
San Antonio, Texas 78205

By: Ana Cortijo, Deputy

VIRGINIA SALDANA
vs
99 CENTS ONLY STORE LLC ET AL

Officer's Return

Case Number: 2021-CI-06190
Court: 166th Judicial District Court

Came to hand on the 1st day of April 2021, A.D., at 9:11 o'clock A.M. and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the _____ day of _____ 20____, by delivering to: _____ at 1999 BRYAN ST 900 DALLAS TX 75201-3140 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION, WITH REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is _____

Mary Angie Garcia
Clerk of the District Courts of
Bexar County, TX
By: Ana Cortijo, Deputy



Mary Angie Garcia
Bexar County District Clerk
101 W. Nueva, Suite 217
San Antonio, Texas 78205

RETURN SERVICE REQUESTED

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7020 1290 0002 1707 0408

99 CENTIS UNLY SUIKE LLC
C/O CT CORPORATION SYSTEM
1999 BRYAN ST 900
DALLAS, TX 75201-3140

2021C106190 4/1/2021 CITICH PNA CORTLJG



U.S. POSTAGE >> PITNEY BOWES



ZIP 78204 \$ 007.85

02 4W

0000350844 APR 01 2021



CT Corporation

**Service of Process
Transmittal**

04/06/2021

CT Log Number 539335304

TO: Mary Kasper
99 Cents Only Stores
4000 Union Pacific Ave
Commerce, CA 90023-3202

RE: Process Served in Texas

FOR: 99 Cents Only Stores LLC (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: VIRGINIA SALDANA, PLTF. vs. 99 CENTS ONLY STORE LLC, ET AL., DFTS.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # 2021CI06190

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Certified Mail on 04/06/2021 postmarked on 04/01/2021

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 04/06/2021, Expected Purge Date: 04/11/2021
Image SOP
Email Notification, Mary Kasper mary.kasper@99only.com
Email Notification, Mary Kay Delgado marykay.delgado@99only.com
Email Notification, Marlon Mendoza marlon.mendoza@99only.com

REGISTERED AGENT ADDRESS: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
866-331-2303
CentralTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

NO. 2021CI06190

VIRGINIA SALDANA	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
	§	
VS.	§	
	§	
99 CENTS ONLY STORES, LLC	§	BEXAR COUNTY, TEXAS
99 CENTS ONLY STORES,	§	
TEXAS, INC. AND 99 CENTS	§	
ONLY STORE #2839	§	
<i>Defendants</i>	§	166 TH JUDICIAL DISTRICT

DEFENDANTS AMENDED ORIGINAL ANSWER AND
DEMAND FOR JURY TRIAL

COMES NOW, in the above-entitled and numbered cause and in answer to Plaintiff's Petition would respectfully show unto the Court as follows:

I.

Defendants generally deny the allegations of the Petition and thus asserting the privilege of having such allegations proved by a preponderance of the evidence. Defendants will amend their answer as necessary.

Defendants are alleging contributory negligence on the part of the Plaintiff. Defendant pleads unavoidable accident.

Defendant affirmatively pleads that 99 Cents Only Store number 2839 sued in this case is not liable in the capacity in which it is sued as alleged by Plaintiff.


II.

99 CENTS ONLY STORES, LLC and 99 CENTS ONLY STORES TEXAS, INC., hereinafter referred to as Defendants, in this cause demands trial by jury pursuant to Rule 216, Texas Rules of Civil Procedure, and tenders the required fee.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that petitioner take nothing by reason of this suit, that the Defendants be discharged and that they go hence with their costs without delay, and for such other and further relief, both general and special, at law and in equity, to which they may show themselves be justly entitled.

Respectfully submitted,

GRIFFIN & GRIFFIN




MICHAEL J. GRIFFIN III
SBN: 08463020
Michael@griffinandgriffin.us (no e-service)
MARILYN O. GRIFFIN
SBN: 08463020
Marilyn@griffinandgriffin.us (no e-service)
3003 South Loop West, Suite 206
Houston, Texas 77054-1372
(713) 228-6568 Tel.
(713) 228-9900 Fax.
E-service: eservice@griffinandgriffin.us

**ATTORNEYS FOR DEFENDANTS
99 CENTS ONLY STORES, LLC AND
99 CENTS ONLY STORES TEXAS, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel of record by certified mail, return receipt requested, e-service, e-mail, facsimile transmission, and/or hand delivered by messenger, on this the 23rd day of April 2021, in compliance with Tex.R.Civ.P. 21:

Erin Anderson Spencer
SBN: 24104963
Erin@spencerandersonfirm.com
4416 Ramsgate, Suite 202
San Antonio, Texas 78230
Tel. 210/699-0004
Fax. 210/699-0005



MICHAEL J. GRIFFIN III
MARILYN O. GRIFFIN

NO. 2021CI06190

VIRGINIA SALDANA	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
	§	
VS.	§	
	§	BEXAR COUNTY, TEXAS
99 CENTS ONLY STORES, LLC	§	
99 CENTS ONLY STORES,	§	
TEXAS, INC. AND 99 CENTS	§	
ONLY STORE #2839	§	
<i>Defendants</i>	§	166 TH JUDICIAL DISTRICT

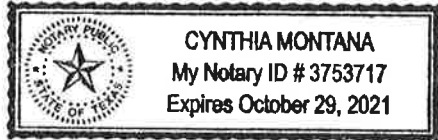
VERIFICATION


STATE OF TEXAS	§
	§
COUNTY OF HARRIS	§

BEFORE ME, the undersigned authority, on this day personally appeared Michael J. Griffin III, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me to be the duly authorized representative of 99 CENTS ONLY STORES, LLC and 99 CENTS ONLY STORES TEXAS, INC., Defendants in the above numbered and entitled cause of action, and after being duly sworn, stated that the Amended Original Answer true and correct as to the legal status of 99 CENTS ONLY STORE #2839 and that said Michael J. Griffin III is authorized to make this affidavit on behalf of 99 CENTS ONLY STORES, LLC and 99 CENTS ONLY STORES TEXAS, INC., Defendants. All statements in this motion are within my personal knowledge and are true and correct.

By: 
MICHAEL J. GRIFFIN III

SWORN TO AND SUBSCRIBED BEFORE ME by the said Michael J. Griffin III, on this the 23rd day of April 2021, to certify which witness my hand and seal of office.




Notary Public in and for
The State of Texas

Printed Name: Cynthia Montana
Commission Expires: 10/29/2021

NO. 2021CI06190

VIRGINIA SALDANA	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
	§	
VS.	§	
	§	BEXAR COUNTY, TEXAS
99 CENTS ONLY STORES, LLC	§	
99 CENTS ONLY STORES,	§	
TEXAS, INC. AND 99 CENTS	§	
ONLY STORE #2839	§	
<i>Defendants</i>	§	166 TH JUDICIAL DISTRICT

DEFENDANTS NOTICE TO ADVERSE PARTIES OF REMOVAL

TO: Plaintiff, VIRGINIA SALDANA, by and through her attorney of record, Erin Anderson Spencer, 4416 Ramsgate, Suite 202, San Antonio, Texas 78230,

Please take notice that the civil action in which you are named as a plaintiff, commenced on March 31, 2021 in the District Court of Bexar County Texas entitled: Virginia Saldana v. 99 Cents Only stores, LLC, 99 Cents Only Stores Texas Inc., and 99 Cents Only Store #2839 with a cause number of 2021-CI-06190 has been removed from that court to the United States District Court for the Western District of Texas effective today April 21, 2021. On this date, a Notice of Removal, a copy of which is attached as Exhibit "A" was filed with the clerk of the United States District Court copy of that Notice of Removal has been filed with the clerk of the State Court affecting removal pursuant to 28 U.S.C. Section 1446.

Respectfully submitted,

GRIFFIN & GRIFFIN



MICHAEL J. GRIFFIN III

SBN: 08463020

Michael@griffinandgriffin.us (no e-service)

MARILYN O. GRIFFIN

SBN: 08463020

Marilyn@griffinandgriffin.us (no e-service)

3003 South Loop West, Suite 206

Houston, Texas 77054-1372

(713) 228-6568 Tel.

(713) 228-9900 Fax.

E-service: eservice@griffinandgriffin.us

ATTORNEYS FOR DEFENDANTS


99 CENTS ONLY STORES, LLC AND

99 CENTS ONLY STORES TEXAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel of record by certified mail, return receipt requested, e-service, e-mail, facsimile transmission, and/or hand delivered by messenger, on this the 23rd day of April 2021, in compliance with Tex.R.Civ.P. 21:

Erin Anderson Spencer
SBN: 24104963
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MICHAEL J. GRIFFIN III
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